

REMARKS

First, the Applicants wish to thank Examiner Petravick for her participation in a January 13, 2005 telephone interview; the Applicants are extremely appreciative. Claims 1-9 were pending in the Application at the time of the October 1, 2004 Office Action. During the interview the Applicants and Examiner discussed the below claim rejections, including those rejections under 35 U.S.C. 112, second paragraph, and 35 U.S.C. 102. Accordingly, the Applicants have amended Claims 1, 3, 5-6, and 8-9 and added new Claims 10-14 per the Examiner's suggestions. Claims 1-13 remain pending in this Application.

Rejection of Claims 3, 6, and 8-9

Claims 3, 6, and 8-9 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.

Claims 3, 6, and 9:

Claims 3, 6, and 9 all include the phrase "extending transversely to an axis of rotation of the second member." The Examiner is of the opinion that the object of the phrase is unclear. Thus, in accordance with the Examiner's suggestion during the January 13, 2005 telephone interview, Claims 3, 6, and 9 have been amended to add the term --and-- before the phrase "extending transversely to an axis of rotation of the second member." No new matter has been added. It is therefore submitted that Claims 3, 6, and 9 meet the requirements of 35 U.S.C. 112, second paragraph.

Claim 5:

Claim 5 ends with the word "therewith." The Examiner is of the opinion that it is unclear what the word "therewith" refers back to. Thus, in accordance with the Examiner's suggestion during the January 13, 2005 telephone interview, Claim 5 has been amended to add a comma (--,--) and delete the word "and" before the phrase "being adapted for holding the second end of the transfer shaft in position for engagement with the pivot pin and supporting the housing and the sensor in axial alignment therewith." No new matter has been added. It is therefore submitted that Claim 5 meets the requirements of 35 U.S.C. 112, second paragraph.

Claim 8:

Claim 8, line 21, includes the limitation "element." It is the Examiner's opinion that since the body of the claim previously recited a "rotatable element" and an "element" on the end of the transfer shaft, the limitation is unclear. However, during the January 13, 2005 telephone conference, the Applicants referred the Examiner to various portions of Claim 8 to help alleviate the confusion. Specifically, Line 6 of Claim 8 identifies the transfer shaft having a "first end portion" including an associated element. Line 9 identifies the transfer shaft having a "second end portion" including an associated element.

Thus, as can be seen in the claim, the term "element" is only used in conjunction with either "first end portion" or "second end portion" for the purpose of linking the "element" with the specific end portion. This format was used to avoid confusion. Accordingly, Line 21 refers "the element" to the immediately mentioned "second end

portion", thus linking the term to the correct end portion so as to alleviate any confusion. During the January 13, 2005 telephone conference, the Examiner acquiesced, and therefore no amendment to Claim 8 is required with respect to the above issue.

The preamble of Claim 8 states a "rotational position sensor" while the body of the claim describes a "sensor." It is the Examiner's opinion that this causes confusion. Accordingly, per the Examiner's suggestion within the October 1, 2004 Office Action, the Applicants have amended the phrase "rotational position sensor" within the preamble of Claim 8 to now read "rotational position sensor assembly." No new matter has been added. It is therefore submitted that Claim 8 meets the requirements of 35 U.S.C. 112, second paragraph.

Rejection of Claims 1-2, 4, and 5 under 35 U.S.C. 102(b)

Claims 1-2, 4, and 5 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,567,719 to Soots et al.

Claims 1-2 and 4:

The Applicants have amended Claim 1 to more particularly point out and describe what the Applicants view as their invention. More specifically, Claim 1 has been amended to specify that the second end of the transfer shaft (68) of the present invention is both "cooperatively engageable with, and non-rigidly attached to, the second member [28]" Such an advantage is clearly contemplated in the Specification of the present invention at Paragraphs 5 and 15 and illustrated in Fig. 4. As such, no new matter has been added.

Alternatively, Soots et al. specifies and limits its "second member" (rockshaft arm 84) to being "rigidly attached to the shaft [80]" It is thus clear that Soots et al. does not anticipate or disclose a non-rigid attachment between the second member 84 and the shaft 80. Accordingly, it is submitted that independent Claim 1 is distinguishable over Soots et al. and thus patentable and in condition for allowance. It is further submitted that dependent Claims 2-4 are also patentable and in condition for allowance as being dependent upon an allowable base claim.

Claim 5:

The Applicants have amended Claim 5 to more particularly point out and describe what the Applicants view as their invention. More specifically, Claim 5 has been amended to specify that the second end of the transfer shaft (68) of the present invention is "cooperatively, coaxially engageable with the second member [28]" Such an advantage is clearly contemplated in the present invention at Figs. 2-4. As such, no new matter has been added. Accordingly, as acquiesced by the Examiner during the January 13, 2005 telephone interview, it is submitted that independent Claim 5 is distinguishable over Soots et al. and thus patentable and in condition for allowance. It is further submitted that dependent Claims 6-7 are also patentable and in condition for allowance as being dependent upon an allowable base claim.

Allowable Subject Matter

The Examiner has indicated that Claims 8-9 would be allowable if rewritten or amended to overcome the rejections under 35 U.S.C. 112, second paragraph, set forth above. The Examiner further indicated that Claims 3 and 6 would be allowable if rewritten to overcome the rejections under 35 U.S.C. 112, second paragraph, and to include all of the limitations of the base claim and any intervening limitations. Finally, the Examiner indicated that Claim 7 would be allowable if rewritten in independent form to including all of the limitations of the base claim and any intervening claims.

Claims 8-9:

In light of the amendments to Claims 8 and 9 above, which overcome the rejections under 35 U.S.C. 112, second paragraph, it is submitted that Claims 8-9 are patentable and in condition for allowance.

Claims 3 and 6 (New Claims 10 and 12):

Claims 3 and 6 have been rewritten in independent form as new Claims 10 and 12, respectively. New Claims 10 and 12 meet the requirements of 35 U.S.C. 112, second paragraph, and include all of the limitations of independent base Claims 1 and 5, respectively. Thus, no new matter has been added. It is thus believed that new independent Claims 10 and 12 are patentable and in condition for allowance.

Claim 7 (New Claim 13):

Claim 7 has been rewritten in independent form as new Claim 13 to include all of the limitations of independent base Claim 5. Thus, no new matter has been added. It is thus believed that new independent Claim 13 is patentable and in condition for allowance.

New ClaimsClaim 11:

New Claim 11 has been added to more particularly point out and describe what the Applicants view as their invention. More specifically, new Claim 11 is substantially similar to original Claim 5, but has been amended to specify that the second end of the transfer shaft (68) of the present invention is both “cooperatively engageable with, and non-rigidly attached to, the second member [28]” Such an advantage is clearly contemplated in the Specification of the present invention at Paragraphs 5 and 15 and illustrated in Fig. 4. As such, no new matter has been added.

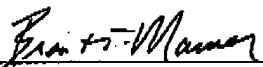
Alternatively, Soots et al. specifies and limits its “second member” (rockshaft arm 84) to being “rigidly attached to the shaft [80]” It is thus clear that Soots et al. does not anticipate or disclose a non-rigid attachment between the second member 84 and the shaft 80. Accordingly, it is submitted that new Claim 11 is distinguishable over Soots et al. and thus patentable and in condition for allowance.

Conclusion

In summary, and in accordance with the Examiner's suggestions in the October 1, 2004 Office Action and during the January 13, 2005 telephone conference, it is believed that pending Claims 1-13 are in position for allowance.

It is believed that a one-month extension of time fee and extra claims fee are due for the filing of this Amendment. Thus, the United States Patent and Trademark Office is hereby authorized to charge \$920.00, or any additional fee required to secure entry of this Amendment, to deposit account No. 03-1025. The Examiner is requested to contact the undersigned at the telephone number appearing below if such would advance the prosecution of this application.

Respectfully submitted,

By: 
Brant T. Maurer
Attorney for Applicant
Reg. No. 53,285

CNH America LLC
Intellectual Property Law Dept.
700 State Street
Racine, Wisconsin 53404
Customer No. 26637
(262) 636-5368

January 14, 2005